



# California Regional Water Quality Control Board

## San Diego Region



Alan C. Lloyd, Ph.D.  
Secretary for  
Environmental  
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties  
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold Schwarzenegger  
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340  
(858) 467-2952 • Fax (858) 571-6972  
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

May 27, 2005

**CERTIFIED – RETURN RECEIPT REQUESTED**  
70042890000257992480

Mr. Russ Earnshaw  
Dakota Ranch Development Co., LLC  
2533 South Highway 101, Suite 240  
Cardiff by the Sea, CA 92007

In reply refer to:  
WPS:18-2002064:hammp

Dear Mr. Earnshaw:

**Complaint No. R9-2005-0176 For Administrative Civil Liability Against Dakota Ranch Development Company, LLC for Violation of Section 401 Water Quality Certification, Dakota Ranch Subdivision, Santee, California**

Enclosed find Administrative Civil Liability Complaint No. R9-2005-0176 (Complaint) against Dakota Ranch Development Company, LLC (Dakota Ranch) for the Dakota Ranch Subdivision located in Santee, California. The complaint in the amount of \$140,500 is for violation of the Section 401 Water Quality Certification issued January 30, 2003 for the Dakota Ranch Subdivision.

Be aware that Dakota Ranch may waive its right to a hearing before the California Regional Water Quality Control Board, San Diego Region (Regional Board). Waiver of the hearing constitutes admission of the validity of the allegation of the violation in the Complaint and acceptance of the recommended assessment of civil liability in the amount of \$140,500 as set forth in the Complaint. Please note that any waiver will not be effective until reasonable opportunity for public participation has been provided. The Regional Board will notify interested persons of any proposed settlement for the recommended liability and will solicit comments on the settlement for a period of thirty (30) days. In order for the Regional Board to accept the waiver of your right to a public hearing, Dakota Ranch must submit the following by 5:00 p.m., June 27, 2005:

1. The enclosed waiver form signed by an authorized agent of Dakota Ranch; and
2. A cashier's check for the full amount of civil liability of \$140,500.

Waivers submitted after June 27, 2005 will not be accepted.

If Dakota Ranch does not elect to waive its right to a public hearing, a hearing is tentatively scheduled to be held at the Regional Board meeting on August 10, 2005, at the Regional Board.

**California Environmental Protection Agency**

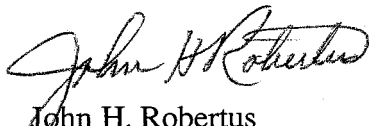
An agenda, with procedures for the hearing will be mailed to you not less than ten days before the hearing date. The meeting is scheduled to begin at 9:00 a.m.

If Dakota Ranch intends to present any written exculpatory evidence, or written evidence in mitigation at the hearing in response to Complaint No. R9-2005-0176, it must be received by 5:00 p.m., Wednesday July 27, 2005 in order to be considered by the Regional Board at the public hearing. Please submit twenty (20) copies of any response, including evidentiary exhibits. Copies of material submitted will be forwarded to the Regional Board members prior to the public hearing.

Please contact Phil Hammer at 858-627-3988 or [phammer@waterboards.ca.gov](mailto:phammer@waterboards.ca.gov) or Stacey Baczkowski at 858-637-5594 or [sbaczkowski@waterboards.ca.gov](mailto:sbaczkowski@waterboards.ca.gov) if you have questions concerning this matter.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:". In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Respectfully,



John H. Robertus  
Executive Officer

Enclosures: 1. ACL Complaint No. R9-2005-0176  
2. Waiver of Hearing Form

cc: John Richards, Office of Chief Council, State Water Resources Control Board, Sacramento  
Oscar Balaguer, Section 401 Water Quality Certification, State Water Resources Control Board  
Jeannette Baker, Army Corps of Engineers, San Diego  
Douglas Williford, Director, Department of Development Services, City of Santee

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**IN THE MATTER OF:**

DAKOTA RANCH DEVELOPMENT CO.,  
LLC  
DAKOTA RANCH SUBDIVISION  
NONCOMPLIANCE WITH SECTION 401  
WATER QUALITY CERTIFICATION

)  
) COMPLAINT NO. R9-2005-0176  
) FOR  
) ADMINISTRATIVE CIVIL LIABILITY  
)  
) May 27, 2005  
)

**DAKOTA RANCH DEVELOPMENT CO., LLC IS HEREBY GIVEN NOTICE  
THAT:**

1. Dakota Ranch Development Co., LLC (Dakota Ranch) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region may impose civil liability under section 13385 of the California Water Code.


**ALLEGATION**

2. Dakota Ranch failed to implement mitigation as required by Section 401 Water Quality Certification issued on January 30, 2003. To date, Dakota Ranch has not implemented the required mitigation. Dakota Ranch is in violation of Section 401 Water Quality Certification for 239 days as of May 27, 2005.

**PROPOSED CIVIL LIABILITY**

3. Based on consideration of the factors listed in section 13385 of the California Water Code, civil liability should be imposed on Dakota Ranch in the amount of \$140,500 for their violation.

Dated this 27<sup>th</sup> day of May 2005

  
\_\_\_\_\_  
John H. Robertus  
Executive Officer



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### WAIVER OF RIGHT TO A PUBLIC HEARING

Mr. Russ Earnshaw  
Dakota Ranch Development Co., LLC  
2533 South Highway 101, Suite 240  
Cardiff by the Sea, CA 92007

Complaint No. R9-2005-0176  
For  
Administrative Civil Liability  
\$140,500

Dakota Ranch Subdivision, Santee, California

By signing below, I agree to waive Dakota Ranch Development Co., LLC's right to a public hearing before the California Regional Water Quality Control Board, San Diego Region with regards to the violation alleged in the above referenced Complaint and to remit payment for the civil liability imposed. I am authorized to give up Dakota Ranch Development Co., LLC's right to be heard, and to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, the civil liability proposed. I have enclosed a cashier's check made payable to the State Water Resources Control Board for the civil liability imposed.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print your name

Send this signed form and check to:  
John H. Robertus, Executive Officer  
California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123

**California Environmental Protection Agency**



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